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9 **BEFORE THE**
RESPIRATORY CARE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 1H-2008-145

13 MY LE TRAN
6112 Estelle Street
14 San Diego, CA 92115

STATEMENT OF ISSUES

15
16 Respondent.

17 Complainant alleges:

18 PARTIES

19 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Respiratory Care Board of California.
21 2. On or about March 10, 2008, the Respiratory Care Board of California
22 (Board) received an application for a license as a Respiratory Care Practitioner from My Le Tran
23 (Respondent). On or about February 17, 2008, Respondent certified under penalty of perjury to
24 the truthfulness of all statements, answers, and representations in the application. The Board
25 denied the application on May 5, 2008. The Board received a letter from Respondent on May 15,
26 2008 requesting a hearing to contest the denial of her application for licensure.

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JURISDICTION

3. This Statement of Issues is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

5. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“...

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“...”

6. Section 3750.5 of the Code states, in pertinent part:

“In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

“(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with section 4015) of Chapter 9 of this code.

“...”

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2 FIRST CAUSE FOR DENIAL OF APPLICATION

3 (Conviction of Crime Substantially Related to the Qualifications,
4 Functions, and Duties of a Respiratory Care Practitioner)

5 11. Respondent's application is subject to denial under Section 3750,
6 subdivision (d), and Section 3752, of the Code, in that on or about September 24, 2007, in a
7 criminal proceeding *People of the State of California v. My Le Tran*, in San Diego Superior
8 Court, Case Number CD208297, Respondent was convicted of a crime substantially related to
9 the qualifications, functions, and duties of a Respiratory Care Practitioner. The circumstances
10 are as follows:

11 a. On or about August 3, 2007, Respondent was stopped by officer R.C. of
12 the San Diego Police Department for failing to make a complete stop at a red light. Respondent
13 did not have identification, and Officer R.C. searched her car and purse. The officer found a
14 baggy in Respondent's purse containing nineteen green tablets with an apple insignia on them.
15 The officer believed, based on his training and experience, that the tablets were
16 Methylenedioxymethamphetamine (AKA, "Ecstasy"), a controlled substance analog. The officer
17 confirmed this belief by comparing the tablets with a picture of ecstasy in his street drugs book,
18 and he then arrested Respondent.

19 b. On or about September 24, 2007, Respondent pled guilty to unauthorized
20 possession of a controlled substance, Methylenedioxymethamphetamine, in violation of Health
21 and Safety Code section 11377, subdivision (a).

22 c. On or about September 24, 2007, the Court ordered Respondent to
23 participate in a drug diversion program, and ordered entry of judgment deferred until March 25,
24 2009 pursuant to Penal Code section 1000, *et.seq.*

25 SECOND CAUSE FOR DENIAL OF APPLICATION

26 (Unlawful Possession of a Controlled Substance or Dangerous Drug)

27 12. Respondent's application is further subject to denial under sections
28 3750.5(a) and 3752 of the Code, in that she obtained or possessed a controlled substance or
dangerous drug, Methylenedioxymethamphetamine, in violation of the law. The circumstances

1 are as follows:

2 13. Paragraph 11, above, is hereby incorporated by reference as if fully set
3 forth herein.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 7 1. Denying the application for a license as a Respiratory Care Practitioner;
8 2. Directing My Le Tran to pay the Respiratory Care Board of California the
9 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
10 probation monitoring; and
11 3. Taking such other and further action as deemed necessary and proper.

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13 DATED: October 10, 2008

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16 Original signed by Liane Zimmerman for:
17 STEPHANIE NUNEZ
18 Executive Officer
19 Respiratory Care Board of California
20 State of California
21 Complainant
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